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In re Application of	:	
Kerkmann-Tucek	:	
Application No.: 09/744,186	:	DECISION
PCT No.: PCT/DE99/02280	:	
Int. Filing Date: 21 July 1999	:	ON
Priority Date: 21 July 1998	:	
Attorney's Docket No.: 012627-020	:	PETITION
For: Agents For The Immunotherapy	:	
Of Tumoral Diseases	:	

This is a decision on the "Petition Under 37 C.F.R. § 1.181..." filed on 14 March 2002.

### **BACKGROUND**

Applicants filed this international application on 21 July 1999, and claimed an earliest priority date of 21 July 1998. The United States was designated. A copy of the published international application was transmitted to the USPTO on 03 February 2000. A Demand electing the United States was filed on 21 February 2000, which was prior to the elapse of 19 months from the priority date. Accordingly, the thirty-month time period to pay the basic national fee in the United States expired as of midnight on 22 January 2001 (since 21 January 2001 was a Sunday).

On 22 January 2001, applicants filed, *inter alia*, the required basic national fee.

On 29 March 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an English translation of the international application, an executed oath or declaration of the inventors, a processing fee under 37 CFR 1.492(f), and a surcharge under 37 CFR 1.492(e).

On 30 March 2001, applicants filed correspondence which is the subject of the instant petition.

On 02 January 2002, applicants filed a status inquiry.

On 06 January 2002, a response to the status inquiry was mailed to applicants, indicating that the papers alleged to have been filed on 30 March 2001 had not been received.

On 14 March 2002, applicants filed the instant petition.

**DISCUSSION**

Petitioner urges that copies of a Transmittal Letter, English translation, declaration, IDS accompanying the petition be accepted as copies of papers filed on 30 March 2001. Review of the evidence reveals that the aforementioned items, along with \$195.00, were itemized on a return postcard receipt stamped as received by the USPTO on 30 March 2001. Therefore, the itemized papers are accepted as copies of those originally filed on that date.

Further review reveals that the papers originally filed on 30 March 2001 were directed toward application number 09/774,186, as opposed to instant application number 09/744,186. Petitioner asserts that "Due to an error in the Serial Number on page 1 of the PCT Transmittal Letter... the Missing Requirements Response Papers were placed in an incorrect file with the U.S. Patent and Trademark Office (i.e., Serial Number 09/774,186)," and the instant petition is accompanied by a corrected Transmittal Letter bearing the instant application number. This is construed as a petition under 37 CFR 1.182 to treat the papers as filed in this application. Based on the totality of evidence now of record, such treatment is appropriate.

Applicants paid the \$65.00 surcharge under 37 CFR 1.492(e) and the \$130.00 processing fee under 37 CFR 1.492(f) on 30 March 2001. These fees are being credited to the instant application and debited from application number 09/774,186. With the instant petition, applicants again paid the \$65.00 surcharge under 37 CFR 1.492(e), which is being credited to counsel's deposit account no. 02-4800 as authorized by the instant petition.

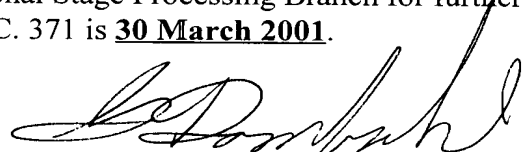
**DECISION**

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 is **30 March 2001**.



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